

Fact Sheet for Habeas Counsel Regarding Administrative Review Boards (ARBs)

- **THE ADMINISTRATIVE REVIEW BOARD PROCESS.** The ARBs are an administrative review process to annually assess whether there is reason to believe that an enemy combatant might pose a continuing threat to the United States or its allies in the ongoing conflict against al Qaeda and its affiliates and supporters, and whether there are other factors warranting the enemy combatant's continued detention. The ARBs began in December 2004. Information on the ARB procedures can be obtained through the Department of Defense website at <http://www.defenselink.mil/releases/2004/nr20040915-1253.html>.
- **TIMING OF ARBS.** The Office for the Administrative Review of the Detention of Enemy Combatants (OARDEC) schedules and conducts all ARB hearings. OARDEC will not be providing information to counsel on the scheduling or outcomes of the ARBs.
- **COUNSEL INVOLVEMENT.** Counsel are not permitted to represent the detainee in the ARB hearing. However, as discussed below, counsel are provided the opportunity to submit information to the ARB if counsel believes that information is relevant to the assessment that his/her client is no longer a threat to the United States or its allies.
- **TIMING FOR SUBMISSION OF COUNSEL MATERIALS.**
 - February 24, 2006 is the deadline for counsel submissions for the 2006 ARB hearings. All submissions received by the Privilege Review Team by that deadline will be provided to the ARBs. Submissions received after that deadline will be provided to the ARB if it has not occurred prior to receipt. If your client's ARB occurs before the Privilege Review Team receives your submission, the information will be retained for consideration at your client's next annual review if he remains in detention.
 - Any materials submitted last year will be provided to the 2006 ARB so there is no need for you to resubmit the same or similar documents.
- **CLASSIFICATION REVIEW AND MARKING.** In order for OARDEC to conduct a proper classification review of your submissions, information submitted by counsel for consideration in an ARB hearing must clearly annotate the sources for any portions that include references to classified, protected, or "For Official Use Only" (FOUO) information. Without the source information, we cannot properly label the documents with the appropriate classification markings; without proper markings, the documents will not be used in the ARB process. Therefore, you should annotate your submission by indicating what information is derived from classified, protected, or FOUO sources, and indicate what document(s) that information came from (e.g., "classified exhibit R-17 to the CSRT"). This will enable us to go to the source document and then determine the proper classification level of that portion of your submission. It is the responsibility of counsel to follow all applicable information security regulations with respect to the handling of classified, protected, or FOUO information. Counsel should work closely

with the designated Court Security Officers to ensure compliance with security regulations.

- **HOW TO SUBMIT INFORMATION FOR ARB CONSIDERATION.** If you have information to submit that does not refer to classified or protected information, you must mail it to the Privilege Review Team. The Team will ensure that your submission is delivered to the OARDEC Legal Advisor. If your submission includes references to classified or protected information, you must provide that document to the Privilege Review Team at the secure facility. A member of the Team will ensure it is properly marked and transmit it to the OARDEC Legal Advisor. The Legal Advisor will contact you to confirm receipt of your classified and unclassified submissions but will not provide any further details regarding the processing of your submission.

- Unclassified material should be mailed to:

Privilege Review Team - REF - ARB Submissions
U.S. Department of Justice
Litigation Security Section
20 Massachusetts Avenue, NW
Suite 5300
Washington, DC 20530

This information is provided to you solely to identify points of contact to facilitate the transmission of your submissions to the ARB. Neither the Privilege Review Team nor the OARDEC Legal Advisor is permitted to discuss other matters with you regarding your client's ARB. This includes your suggestions on how and when ARBs should be conducted, your questions about ARB procedures, and other such matters.